

The formal record of the hearing is the audio tapes.
The Agents notes are attached to, and part of, the minutes folders in the Com. Dev. office.

CONSERVATION COMMISSION
MINUTES OF THE MEETING
WEDNESDAY, DECEMBER 3, 2008
CATA CONFERENCE ROOM
3 POND ROAD
ROBERT GULLA, CHAIRMAN

MEMBERS PRESENT

Robert Gulla, Chairman
Ann Jo Jackson
John Feener
Charles Anderson

MEMBERS ABSENT

Dr. Arthur Socolow
Brandon Frontiero
William Febiger

STAFF PRESENT

Nancy Ryder, Conservation
Agent
Carol Gray, Recording Clerk

CONTINUATIONS FOR SHORT REVIEWS, 1-5 MINUTES MAXIMUM, REVIEW OF AMENDED, UPDATED OR FINAL INFORMATION, STATUS REVIEWS, MINOR AMENDMENTS, SIGNING DECISIONS, CLOSURE OF HEARINGS, ETC.

Nautilus Road Map 68, Lot 18

This is a Request for Determination submitted by the City of Gloucester, Mark Cole, DPW, to remove and restore a concrete path, remove invasives, and re-plant trees on a Right of Way on a coastal bank.

Mr. Feener states that he did a site visit and that the plan submitted will work.

They want to cut the bittersweet 12 inches above grade which is not to be done until spring. There is a discrepancy which is that the owner thought the funds would pay for the labor, which it does not. This was conveyed to the owner.

The owner wants to use stone and the elevated boardwalk was discussed.

The Agent notes that the DPW account was not used for the trees but was used for the driveway, etc. She recommends a Letter Permit and not closing the file.

They need to come back with a plan.

Mr. Gulla entertains a motion to continue the matter to 02/18/09 7:30 PM.

MOTION: Ms. Jackson moves to continue the matter to the above date and time.

SECOND: Mr. Anderson VOTE: 4-0 all in favor.

Mr. Gulla entertains a motion to approve the Letter Permit for the cutting of the bittersweet down to 1 ft. above grade, within the designated work area.

MOTION: Ms. Jackson moves to approve the above

SECOND: Mr. Anderson VOTE: 4-0 all in favor.

116 Atlantic Street-

This matter is pending re: mitigation/restoration planting plan.

The Agent states that a submission of the restoration plan was made and we rejected it with them coming back with another. The plan is poor but is what the GCC asked for. She notes planting pavers or crushed stone w/ Rosa Rugosa. The hard pack was pulled up. She states that this is a relatively small project.

The map was reviewed by the GCC.

Mr. Feener states that the plan is not the best but does meet the requirements.

In regards to the Rosa Rugosa, Mr. Feener notes a 5 ft. wide buffer with no cutting of the tops.

PUBLIC COMMENT: none/closed.

The Agent states that the owner can be given the option to amend this.

A policy may need to be set re: the Public Comment Period regarding the continuations of closed out matters.

Mr. Gulla entertains a motion to approve the mitigation restoration planting plan with noted conditions: the tops of the bittersweet are not to be cut and the width is a minimum of 5 ft. wide.

MOTION: Ms. Jackson moves to approve with the above noted conditions.

SECOND: Mr. Feener VOTE: 3-0 ABSTENTION: Mr. Anderson

The Agent notes that this is automatically good for 3 years. It can be conditioned to one year and the Order is valid for one year.

PUBLIC COMMENT PERIOD: none/closed.

Minutes Review

September 17, 2008

October 1, 2008

Mr. Gulla entertains a motion for approval of the above noted Minutes of the Meeting of the Gloucester Conservation Commission.

MOTION: Mr. Feener

SECOND: Ms. Jackson VOTE: 4-0 all in favor.

Ms. Nancy Ryder, Agent for the Gloucester Conservation Commission discusses electronic filings re: submissions to her office.

A laptop and screen for viewing at the meetings is being used for the benefit of everyone to see and read the issues. The goal is so the GCC does not have to print out everything. Her office is going to begin to demand electronic copies and only 2 hard copies will be allowed to be submitted.

37 Niles Pond Road Map135, Lot 2

This is a Notice of Intent submitted by Eastern Point Retreat House, to re-construct 500' of existing stone revetment, re-grade access road and install a vegetative buffer on a coastal bank.

Mr. David Smith, Vine Assoc. and Father James Carr are present and before the GCC.

Mr. Smith reviews the plan with the GCC noting the revetment, the re-grading of the access road and the vegetated buffer. He notes constructing a toe at the landward side.

A site visit was done on 11/16/08, walking the site to look at the eroded areas, the areas of the settlement and the area in front of the dining hall as well as walking the roadway. He

notes a discussion re: other access points and notes the dirt path through the woods and to the lawn area. He notes that some GCC members drove around the area as well. He notes a memorandum dated 11/26/08 re: comments and questions that were raised at the site visit. Three different access ways were noted:

1. the re-grading of the existing way
2. the main entrance
3. Through the area that was walked during the site visit.

He notes the Performance Standards of a Coastal Bank stating that the work to be done is to prevent storm damage and to address flood control.

He states that the revetment was built in 1972 and notes documents submitted.

Mr. Gulla states that ultimately the GCC appreciates that fact that they did was asked of them by the GCC.

Mr. Gulla states that both Mr. Febiger and Mr. Frontiero had concerns, (previously noted), regarding armoring the bank and others wanting to do the same as well.

He notes that personally re: the road grade and the road work, if it is endangering a structure, it is endangering a roadway. He notes the possibility of a simpler way besides armoring the bank, as there is an abundance of stones. The more you armor the higher the velocity becomes. He states that this maneuver is quite aggressive.

Mr. Smith states that some of the methods and/or alternatives, in his opinion, are not going to work. He is calling this a reconstruction project.

Nothing has been done since the 1970's other than the re-grading of the road and left unchecked it will continue to erode. We are trying to avoid that happening as well as minimize the work to be done.

Ms. Ryder states that there are no records re: wall construction since the 1960's.

You need to prove that it is a formally constructed wall if you are calling this a reconstruction project. You need a level of evidence that it is something that was constructed as it could be just storms that have thrown the stones around.

Mr. Smith states that he has proof through local knowledge, verbal comments and paperwork. He notes that MEPA does not trigger a filing and it does not require a state permit.

Mr. Gulla notes that reconstruction or not, do we consider this a reconstruction regarding the revetment? He states that he does not know what the time table is re: erosion and maybe they could tier it and see.

Ms. Ryder states that they need to be cautious, prove that it is a structure and find evidence that the structure existed and there is none.

Mr. Smith states that he feels he has proven that and notes the building built prior to 1978.

Ms. Ryder states that maybe this issue is for MEPA or a 3rd party consultant.

Mr. Anderson notes a concern for erosion on top of the bank and in terms of the erosion itself and the proximity of the property to Niles Pond; a future breach is a concern. He is thinking about having this scaled back.

Mr. Smith agrees with Mr. Gulla re: maybe not doing all the way around but midway and to the building as the worst of the damage is midway and to the building.

Mr. Gulla states that this is a tricky issue for the GCC and that either way the items to confirm are that this is a reconstruction of existing and the Performance Standards have to be met, or this is armoring of the coastal bank.

If this cannot be proven then he cannot do it. More research needs to be done.

You need to come up with something to prove it is an existing structure. Mr. Gulla states that he may do a site visit on his own and continue this matter to the next meeting. He noted that Mr. Smith could ask them for a decision right now but more information is needed.

Mr. Feener inquires as to the reinforcement being done in 1972 with nothing done since then? He further inquires as to the past 36 years and this being the only problem with erosion that they have had with Mr. Smith stating as far as he knows.

Mr. Gulla states that there is a filing deadline to be met with any proof that he has so that this can be on the agenda for the next meeting.

Mr. Anderson suggested Mr. Smith contact Mr. Joe Garland.

The Agent reads the DEP comments, which can be found with the Agent's attached notes and on the audio version of the meeting.

She states that it is critical they find evidence to prove that this is a reconstruction.

Mr. Gulla suggests that they may want to come up with alternatives and possibly some middle ground can be reached.

Mr. Smith states that they are trying to keep the continuity and prevent a breach.

Mr. Anderson states that his concern is to know if it is a natural structure or a man made structure.

PUBLIC COMMENT: none/closed.

Mr. Gulla entertains a motion to continue the matter to 12/17/08 9:00 PM.

MOTION: Mr. Feener moves to continue the matter to the above date and time.

SECOND: Mr. Anderson

VOTE: 4-0 all in favor.

Bungalow Road, and Bayberry Lane, Map 257, Lots 54, 61

This is a Notice of Intent submitted by Davis Beach Association to perform beach maintenance, and to implement a beach management plan.

Mr. Curt Young representing the Davis Beach Assoc. is present and before the GCC along with Mr. Herb Phillips.

Site photos were viewed.

Mr. Young notes that in November a beach management plan was filed. He notes a change: the installation of a sand/snow fence on the beach area, along the beach and along the access way. He notes aerial photos pointing out the loading area, beach access and the boardwalk. He notes the sand fence along the edge of the dune, along the access way and connecting to the dune. They are trying to restrict access to the dune. They have provided for accumulation of the sand along the fence.

Ms. Ryder states that she has a concern regarding a boat stored in the toe of the coastal dune or the edge of the vegetation.

Mr. Gulla notes wanting to see where the fence is to be located, such as some line indication.

Mr. Young states that flags will be placed on the site re: the concept of the fence.

Ms. Ryder questions the language used re: the fence and it being yearly and 5ft. off the toe of the dune.

Mr. Young notes pg. 9 and comments the above normal high tide and that 5 ft. off the toe is not possible. He does note this as a yearly replacement.

Mr. Gulla states that he needs to show it with the location.

Mr. Feener notes they he thought the GCC had asked about moving the walk next to the gate. In the narrative it only states removal below the dune.

Mr. Young notes the areas around the gate and states that it is hard to remove.
Mr. Feener notes confusion re: the areas of the boardwalk to remain.
Mr. Young notes the Davis Beach access facing south stating that from the retaining wall to the street will remain.
Mr. Bill Cook states that you can see from photos where the gate is being buried.
He notes the possibility of moving the deck approx. 18 inches. If the gate can be moved over then it can be opened full length to get the boardwalk through it. There is a 4 ft. opening and the boardwalk is 6 ft. wide. He states that the angle does not have to be straight. Mr. Gulla noted his concern re: adding the gate into this. Ms. Ryder states that this is a management plan and the gate is part of it.
Mr. Young would like to close off on this part now and come back to the GCC with any changes.
PUBLIC COMMENT: none/closed.
Mr. Gulla states that a condition can be added re: moving the deck 18 inches with the Agent noting her agreement.
Conditions noted: noting the language of the plan to reflect 5 ft. from the toe of the dune, no more than 4 sections of the boardwalk near the gate removed and the submission re: the primary placement of the gate along with information re: the hole to be dug.
Mr. Gulla entertains a motion to approve with conditions noted.
MOTION: Ms. Jackson moves to approve.
SECOND: Mr. Anderson VOTE: 4-0 all in favor.

1 & 3 Chester Square, Map122, Lots 22 & 29

This is a Notice of Intent submitted by Sarah Perry, to repair a sea wall in Lobster Cove on a coastal bank.

Sarah and John Perry are before the GCC stating that they want to stabilize the granite seawall. There are three bulging areas that are causing the instability.

They would like to rebuild the wall in those three places. They have prepared a lengthy document.

Ms. Ryder states that she has no concerns regarding the remedy but notes a concern re: instead of using stone up to the grade, they use filter fabric to go above the stone. She notes that included in the details are the information the GCC had requested.

Ms. Ryder reads the document noting the details of the plan.

Mr. Gulla inquired as to any comments from Shellfish with Ms. Ryder stating Mr. Dave Sargent did not feel there would be any impact but he can condition it, not having read the documents that were submitted today.

Mr. Gulla notes that the Agent has determined that the applicants have covered all the bases. The contractor needs to understand the document re: work to be done and understand how to do the work according to the document.

Ms. Ryder notes that good controls are in place and everything was addressed that was requested.

Mr. Gulla notes that the applicants did an excellent job and everything that was asked for is included.

PUBLIC COMMENT: none/closed.

Mr. Gulla entertains a motion to approve with conditions noted: a minor adjustment re: the filter fabric in the stone area behind the wall to be lowered 6 inches with the filter fabric to be placed above the stone, then mulching and seeding to be done.

Shellfish must approve the project prior to work being started.

MOTION: Ms. Jackson moves to approve with the above noted conditions.

SECOND: Mr. Anderson VOTE: 4-0 all in favor.

Gloucester Inner harbor, North Channel,

This is a Notice of Intent submitted by Harbormaster's office, City of Gloucester, to conduct maintenance and improvement dredging.

The Agent notes a request for a continuation regarding this matter.

Mr. Gulla entertains a motion to continue this matter to 01/21/09 7:30 PM.

MOTION: Ms. Jackson moves to continue the matter to the above date and time.

SECOND: Mr. Feener VOTE: 4-0 all in favor.

65 Riverview Road, Map 94, Lot 16

This is a Request for Determination submitted by Kathleen

Callahan, to install a seasonal dock and float in the Annisquam River.

Ms. Kathleen Callahan is before the GCC along with her sister, Ms. Maureen Malloy.

Ms. Callahan states that they want to put in a seasonal dock. The permanent structure has been damaged. They want something small so they can bring their boat in.

Ms. Ryder notes site visits being taken with Mr. Jim Caulkett and Mr. Dave Sargent. She notes 2 or 3 site visits being done. She notes the foundation as pre-existing. The gangway components must be stored above the high tide line. All construction to be done needs to be in the document. Non toxic materials are to be used as well as materials that are conducive to a marine environment.

Mr. Gulla states that the mooring cannot ground out and it has to be stipulated in the document.

Ms. Ryder notes that it can be modified to reflect that it cannot ground out or come within 2 ft. of the eelgrass beds.

Mr. Gulla entertains a motion for a negative determination.

Ms. Ryder notes accepting this but not approving this.

MOTION: Mr. Feener moves for a negative determination.

SECOND: Ms. Jackson VOTE: 4-0 all in favor.

280 Atlantic Road, Map 134, Lot 27

This is a Request for Determination submitted by Cynthia

Danaher and Richard Kohn to replace the masonry cap on an existing sea wall with a new granite capstone.

Mr. Richard Kohn is before the GCC and states that the seawall is in bad shape.

An Emergency Permit was granted a year ago to repair it. He would like to finish the repair by adding the capstone.

The Agent states that the damage is severe. She notes that the work has to stay on the lawn side. They need to carefully monitor the weather and not work during a storm.

Mr. Gulla notes the vegetation on the lawn side and states that they need to maneuver around the vegetation. The site needs to be managed properly.

If a section needs to have more work done then you need to go back to the Agent and discuss it. A Bobcat is not to be on the other side of the wall.

Mr. Feener notes plywood or some form of material re: the Bobcat.

PUBLIC COMMENT: none/closed.

Mr. Gulla entertains a motion for a negative determination with the following conditions noted: capstone replacement only, a mat system to provide protection for the vegetation, Bobcat and/or machinery to be located only on the upland side, the weather is to be checked prior to the start of work and no vegetation is to be removed.

MOTION: Mr. Feener moves for the negative determination. (2A/2B/+5/-2)

SECOND: Mr. Anderson

VOTE: 4-0 all in favor.

11R Chester Square

This is a Notice of Intent submitted by Robert Henriques, to construct a new building on concrete pilings with utilities, on a coastal bank.

Mr. Henriques is present and before the GCC stating that the purpose of the new building is for housing for extended family members. He notes reducing the size, noting 700 sq. ft. as well as changing the shape of it.

The shed in the photographs would be removed. No trees will be removed.

He notes that the structure will be on pilings.

Ms. Ryder states that re: the planting plan, she is not sure if there are enough sufficient details for the GCC but it can come in as an amendment.

Mr. Gulla notes that the GCC can condition this re: a planting plan to be submitted. We need to revisit this and get it to be a more densely planted area.

Mr. Henriques notes relocating some vinca as it is very dense.

Ms. Ryder states that a vegetative buffer is a variety of plantings and vinca is mostly just a ground cover.

The applicant notes that the vegetation along the shoreline has been there for years and asks if the GCC is suggesting he rip it up.

Mr. Gulla states no, you have a plan and an approach but usually there is diversification re: plantings.

Ms. Jackson notes that all native plants are to be used.

The Agent refers to the photos and notes what the applicant needs to put back.

Mr. Gulla states that the plantings need to be indigenous. He notes that it is dense in the background and not in the foreground.

Mr. Feener notes the pilings being installed and states that the root zone may be affected.

Mr. Gulla states that when dragging the sonotubes, they may get into the root system.

Mr. Feener notes a tree and the direction of the root system.

Mr. Gulla states that an arborist will be able to assist re: the location of the placement of the pilings.

The applicant states that the raw material will be maneuvered by hand around the ledge and to the walkway up to the construction site. He notes a plywood road for the Bobcat.

Ms. Ryder states that they need to come back with a Blasting Protocol Plan.

Mr. Gulla states that the GCC needs to know that he has engaged a professional for this and he needs to come back to the GCC with this information.

Mr. Feener notes cutting and filling in one day. He notes standards re: the trees and the root system if or if not affected.

Mr. Gulla questioned the erosion fence and its length with Ms. Ryder stating it is for access purposes.

PUBLIC COMMENT: none/closed.

Mr. Gulla entertains a motion to approve with conditions:

The planting plan is to be revised, submitted and approved by the Agent prior to the start of construction. A certified arborist is to be consulted using ANSI 300 standards re: the location of the pilings to limit the damage to root structures.

The Bobcat and/or backhoe are to be used on the designated pathway for the installation of the utility lines. On one day: the trench is dug; lines are laid, back cover and stabilize. The weather is to be checked with no work to occur during rain or with any storms expected.

MOTION: Mr. Anderson moves to approve with the above conditions noted.

SECOND: Ms. Jackson

VOTE: 4-0 all in favor.

4 Stanwood Point,

This matter is on the agenda for a discussion regarding issues on site and to vote whether to re-open the existing enforcement order.

The Agent reviews with the GCC and states that a letter was sent to Mr. Bernard Sova giving him an extra 2 weeks. The entire operation was shut down.

A discussion was had regarding how to proceed with enforcement.

Mr. Gulla notes a continuance with Mr. Feener suggesting that a letter be sent asking for some kind of response from Mr. Sova.

Ms. Ryder states that this has been going on for three years.

Mr. Gulla states that he will force the GCC to shut him down, during a bad time, in the spring. We need to be as forceful as possible.

The Agent states that their have been 10 to 20 phone calls regarding a backhoe being on the beach.

Mr. Gulla suggests that the letter to be sent be cc'ed to all GCC members.

The Agent states that they are running out of options regarding this matter.

Mr. Gulla states that this has been going on for too long and the Agent needs to have some recommendations for fining to be discussed at the next meeting.

Mr. Gulla entertains a motion to continue the matter to 12/17/08 9:00 PM.

MOTION: Ms. Jackson moves to continue the matter to the above date and time.

SECOND: Mr. Anderson

VOTE: 4-0 all in favor.

31 Rockholm Road, Map 159, Lot 6

This is a Notice of Intent submitted by Edward Caselden, to remove and replace a dwelling, construct a patio and add landscaping on a buffer to a coastal bank.

Mr. Thomas Keough, Hancock Assoc. representing Mr. Caselden is before the GCC. He reviews the plan noting a letter that was sent. He notes the colored in area on the plan as the planting areas and notes documentation regarding the planting as well. He notes not willing to go across and obstruct the view.

In regards to the planting plan he notes: non invasives, fruit bearing plantings, a mixture of trees and shrubs and grasses 5 to 7 ft. in height. He notes the rack line and a little 3 ft. wide cut that is shown in the photos.

Mr. Gulla states that a site visit was done with the Agent and they saw the rack line up further. We can agree to disagree where the line is. We are not going to say we agree in the final documents. He notes the GCC wanting a proper delineation as the pervious and impervious. The existing patio is pretty pervious already. He notes the edge of the slate and inquires as to that being included.

Mr. Keough states that they didn't want to split hairs so they listed it as impervious in the numbers. He notes the planting bed area in the top left corner of the plan.

Ms. Ryder states that if they are going to replace it, then it needs to be dense and you need to consider doubling the mitigation area, with Mr. Gulla suggesting to not touch it.

Mr. Keough stated that increasing it is not a problem. It is not going to be edged.

Mr. Gulla states that it is a tight nesting area for animals. He notes the right hand side and a tree with Mr. Keough stating that they are leaving the tree and complete coverage.

Mr. Feener suggests a management plan for the removal of the bittersweet with Mr. Kehoe noting #4. Mr. Feener again states that something needs to be on the plan for the management of the bittersweet.

Ms. Ryder requested a color copy of the plan (with notes included).

PUBLIC COMMENT: none/closed.

Ms. Ryder inquires as to any trees in front to be removed or damaged with Mr. Keough stating that there is one tree, a 24 inch Maple which is 160 ft. away from the resource area.

Mr. Gulla entertains a motion to approve with noted conditions:

The vegetative management area behind area #2 is to be doubled in density of all plantings to replace more closely the density of the existing invasive area or the invasive area is to remain as is.

A five year maintenance plan for the bittersweet removal.

The coastal bank delineation is not confirmed but does not impact the project which remains in the buffer only.

MOTION: Ms. Jackson moves to approve with the noted conditions.

SECOND: Mr. Anderson VOTE: 4-0 all in favor.

Requests for Extension Permits -

7 Whale Rocks Road

Brian Cassidy, Esq. is before the GCC asking the Commission for an extension of the OoC dated 12/12/05. His reasons for the request are time requirements and financial hardship and he reviews this with the GCC. He notes a variance being issued, 05/12/06 and tells the GCC that the appeal has expired. He states that it shows Whale Rocks Road as a private way. He notes a filing for a common driveway and in going before the Planning Board; he could not convince them that it was a private road. Special Permits for a common driveway were recorded on 03/25/07 and approved on 04/26/07. The price has been dropped twice for financial difficulties and in the offer it was noted that the cost of the septic system would be picked up, but the funds are no longer available to do that. He is asking for a one year extension.

The Agent states that she did not realize that it was held up for two years.

She notes a letter to be sent that determines that the affective date will be through 2010.

The letter can be signed by Mr. Gulla as approval is not needed.

The letter will suffice.

147 Essex Avenue (Pond View Village)

The Agent reviews with the GCC stating that they can only grant three extensions and they have already had two.

Mr. Gulla entertains a motion to grant the extension.

MOTION: Ms. Jackson moves to approve.

SECOND: Mr. Anderson VOTE: 4-0 all in favor.

AGENT'S REPORT ON VIOLATIONS

Violation update for Eastern Avenue, Calvary Cemetery

The Agent notes the contractor being allowed to come in a dump brush.

She notes a possible Enforcement Hearing as they have come in but they are not actively doing anything.

Mr. Feener discussed concerns he has regarding individuals spraying with inappropriate materials.

Requests for Letter Permits

67 Woodward Ave. –

The Agent reviews this request with the GCC. She states that it is two projects and one situation.

Mr. Gulla entertains a motion to approve the Letter Permit request.

MOTION: Ms. Jackson moves to approve.

SECOND: Mr. Anderson

50 Eastern Point Boulevard –

The Agent states that this is in regards to a driveway replacement.

The matter is held to the next meeting dated 12/17/08.

Mr. Gulla entertains a motion to adjourn this meeting of the Gloucester Conservation Commission.

MOTION: Ms. Jackson moves to adjourn.

SECOND: Mr. Feener VOTE: 4-0 all in favor.

Meeting adjourned.

Respectfully submitted,

Carol A. Gray
Recording Clerk